

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5105 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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MAMAD ALI MAMAD CHAUHAN

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner  
MR.NEEGAM SHUKLA,AGP for Respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 2.5.1996 passed by the District Magistrate, Kachchh-Bhuj whereby the petitioner was detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was

executed on 4.5.1996 and since then the petitioner is under detention lodged at Central Prison, Ahmedabad.

This Special Civil Application was filed in this Court on 15.7.1996 and on 16.7.1996 Rule returnable for 12.8.1996 was issued. So far neither any reply has been filed nor the affidavit of the Detaining Authority has been filed.

The grounds enclosed with the detention order show that four criminal cases under the Prohibition Act were registered against the petitioner. Besides this the Detaining Authority has also taken into consideration the statements of five witnesses made against the petitioner's antisocial activities. The petitioner has been found to be engaged in antisocial activities and has been detained as bootlegger.

The detention order is challenged on more than one grounds but the learned counsel for the petitioner has kept arguments confined only to the question that it is not a case of breach of public order.

In view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegation and material relied upon by the Detaining Authority against the petitioner even if taken to be true do not constitute the case of breach of public order and at the most it is a case of law and order. The detention order therefore deserves to be quashed and set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 2.5.1996 passed by the District Magistrate, Kachchh Bhuj is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.

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